

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2018-355-T

Jason Kupiec

v.

JMS Worldwide, LLC

**MOTION TO DISMISS
AND MOTION TO STAY**

1) Pursuant to SCRCP Rule 12(b)(1) Defendant JMS Worldwide, LLC (“JMS” or “Company”) hereby suggests the Commission lacks subject-matter jurisdiction over the above captioned complaint of Jason Kupiec (“Kupiec” or “Complainant”) and moves for its dismissal.

2) The Commission has jurisdiction over motor vehicle carriers operating vehicles “used in the business of transporting persons or property for compensation over any improved highway in this State”. S.C. Code § 58-23-10(4).

3) The facts pled by the Complainant, Jason Kupiec do not show JMS was hired to transport property for compensation over an improved highway of the State during the events giving rise to the Complaint. The facts, as pled by Kupiec, show the opposite.

4) According to Kupiec’s Complaint “Johnson’s Moving & Storage was **contracted to unload a truck** and move items into my home” (**emphasis added**).

5) Kupiec further states: “On 6/13/18, **as I was in the process of driving the moving truck ...**” (**emphasis added**).

6) Furthermore, Kupiec’s complaint involves an interstate move: “as I was in the process of **driving the moving truck down to South Carolina...**” and would be the subject of federal regulation under 49 U.S.C. § 13501 *et seq.*

7) For these reasons, JMS respectfully suggests the Commission lacks subject matter jurisdiction over this Complaint and moves for dismissal with prejudice.

8) JMS further moves for a stay of these proceedings, including its obligation to further answer this Complaint, until this motion is decided. JMS submits that a stay would serve the interests of judicial economy.

Respectfully submitted,

s/ Charles L.A. Terreni

Date: November 27, 2018

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CERTIFICATE OF SERVICE

I, **CARL E. BELL**, hereby certify that I have, on this **27th day of November 2018**, served the **MOTION TO DISMISS AND MOTION TO STAY**, upon the parties listed below by email and US MAIL to the following person(s) and addresses:

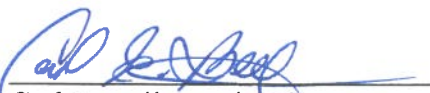
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